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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,460	10/15/2003	Paul John Seakins	1171/39624D	7799

279 7590 03/29/2006

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EXAMINER
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DAWSON, GLENN K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/686,460

Applicant(s)

SEAKINS ET AL.

Examiner

Glenn K. Dawson

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Allowable Subject Matter***

The indicated allowability of claims 1-15 is withdrawn in view of the reference(s) to Seakins, et al.-6918389. Rejections based on the newly cited reference(s) follow.

***Double Patenting***

Claims 1,2 and 4-15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 16 of U.S. Patent No. 6,918,389 in view of Yoshikazu-JP-09234247.

The claims of the patent claim the same general humidification apparatus including a humidification chamber having an inlet And outlet; a chamber heater including wet and dry heating means- (the examiner has construed that these means are invoking 112 6th and therefore the structure of the parallel passages and the valving and controller are all included in these means) and a controller to energizing the hating means to achieve absolute humidity of the gas. However, the sensor and the controller achieving either the relative humidity or the temperature of the gas are not disclosed. Yoshikazu discloses a humidifier for a breathing circuit having a controller which uses signals from sensors which measure humidity 11 and temperature 10 in order to calculate absolute humidity to control the heaters to cause the proper amount of moisture to be placed in the breathing air and to maintain the proper temperature. It would have been obvious to have provided the claimed humidifier with the sensor arrangement of Yoshikazu, in order to more accurately measure and maintain the proper air temperature and humidity at levels prescribed to be beneficial to the particular patient.

Claim 3 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 16 of U.S. Patent No. 6918389 in view of Yoshikazu and further in view of Grant-4051205.

The difference between the claims of the application and the patent claims is the metal coil heater. Grant discloses a metal heating coil 26. To have used a metal heating coil as the heating means of the patent claim 16 would have been obvious as it allows for convenient control by altering the amount of current delivered to the coil for heating purposes.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn K. Dawson whose telephone number is 571-272-4694. The examiner can normally be reached on M-Th 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Glenn K Dawson  
Primary Examiner  
Art Unit 3731

Gkd  
21 March 2006